

REMARKS

Independent claim 1 has been amended to comply with 35 USC §112, second paragraph, and new dependent claim 35 has been added. No new matter was added. Thus, claims 1, 6, 28 and 32-35 are pending. Arguments and a verified English Language translation of the priority document of the present application are submitted for overcoming the rejections based on the prior art of record. Accordingly, Applicants respectfully submit that the present application is in condition for allowance.

I. Claim Rejections - 35 USC §112, second paragraph

In the non-final Office Action dated March 31, 2009, claim 1 is rejected under 35 USC §112, second paragraph, as being indefinite.

Claim 1 previously included the limitation: “said substrate being a silicon carbide substrate having a flat surface and a 4H crystal structure”. The phrase “a flat surface and” has been deleted from claim 1. Accordingly, Applicants respectfully submit that claim 1 fully complies with §112, second paragraph.

New dependent claim 35 has been added and requires the silicon carbide epitaxial wafer to have a flat surface. No new matter was added; for example, see page 5, lines 1-4, of the present application, as filed.

Accordingly, Applicants respectfully request reconsideration and removal of the §112, second paragraph, rejection.

II. Claim Rejections - 35 USC §102

- A. *In the non-final Office Action dated March 31, 2009, claims 1 and 34 are rejected under 35 USC §102(e) as being anticipated by U.S. Patent Application Publication No. 2006/0011128 A1 of Ellison et al.*

The Ellison et al. application publication has a filing date of July 14, 2005 and claims priority to a provisional application having a filing date of July 19, 2004. Thus, the §102(e) date of Ellison et al. is no earlier than **July 19, 2004**.

The present application is the U.S. national phase of International PCT Patent Application No. PCT/JP2004/011894 filed on August 19, 2004 which claims a benefit of priority to Japanese Patent Application No. 2003-295413 filed on **August 19, 2003**. A copy of the priority document was properly submitted during the international phase of the present application. A copy of a verified English Translation of the priority document (JP 2003-295413) is submitted with this Amendment. The English Language translation of the priority document provides support for the claims of the present application as currently pending.

Accordingly, Applicants respectfully submit that the §102(e) date of the Ellison et al. application publication falls after the priority date (August 19, 2003) of the present application. Accordingly, Applicants respectfully request removal of the Ellison et al. application publication from further consideration as prior art under 35 USC §102(e) relative to the present application.

For this reason, Applicants respectfully request reconsideration and removal of the above referenced rejection.

- B. *In the non-final Office Action dated March 31, 2009, claims 1 and 34 are rejected under 35 USC §102(a) as being anticipated by the publication of Nakamura et al. titled "Surface Mechanisms in Homoepitaxial Growth on alpha-SiC {0001}-vicinal Faces".*

The Nakamura et al. publication was first announced at the international conference "Silicon Carbide and Related Materials 2003" held in Lyon, France during the period of October 5, 2003 to October 10, 2003. The Nakamura et al. publication was first formally published in the "Proceedings of the 10th International Conference on Silicon Carbide and Related Materials" as the record of proceedings on February 20, 2004. Thus, the §102(a) date of the Nakamura et al. publication is **February 20, 2004**, and out of an abundance of care, is certainly no earlier than **October 5, 2003**.

As stated above, the present application is the U.S. national phase of International PCT Patent Application No. PCT/JP2004/011894 filed on August 19, 2004 which claims a benefit of priority to Japanese Patent Application No. 2003-295413 filed on **August 19, 2003**. A copy of the priority document was properly submitted during the international phase of the present application. A copy of a verified English Translation of the priority document (JP 2003-295413) is submitted with this Amendment. The English Language translation of the priority document provides support for the claims of the present application as currently pending.

Accordingly, Applicants respectfully submit that the §102(a) date of the Nakamura et al. publication falls after the priority date (August 19, 2003) of the present application. Accordingly, Applicants respectfully request removal of the Nakamura et al. publication from further consideration as prior art under 35 USC §102(a) relative to the present application.

For this reason, Applicants respectfully request reconsideration and removal of the above referenced rejection.

- C. *In the non-final Office Action dated March 31, 2009, claims 1 and 34 are rejected under 35 USC §102(a) as being anticipated by the publication of Kojima et al. titled "4H-SiC Carbon-Face Epitaxial Layers Grown by Low-Pressure Hot-Wall Chemical Vapor Deposition".*

The Kojima et al. publication was first announced at the international conference "Silicon Carbide and Related Materials 2003" held in Lyon, France during the period of October 5, 2003 to October 10, 2003. The Kojima et al. publication was first formally published in the "Proceedings of the 10th International Conference on Silicon Carbide and Related Materials" as the record of proceedings on February 20, 2004. Thus, the §102(a) date of the Kojima et al. publication is **February 20, 2004**, and out of an abundance of care, is certainly no earlier than **October 5, 2003**.

As stated above, the present application is the U.S. national phase of International PCT Patent Application No. PCT/JP2004/011894 filed on August 19, 2004 which claims a benefit of priority to Japanese Patent Application No. 2003-295413 filed on **August 19, 2003**. A copy of the priority document was properly submitted during the international phase of the present application. A copy of a verified English Translation of the priority document (JP 2003-295,413) is submitted with this Amendment. The English Language translation of the priority document provides support for the claims of the present application as currently pending.

Accordingly, Applicants respectfully submit that the §102(a) date of the Kojima et al. publication falls after the priority date (August 19, 2003) of the present application. Accordingly, Applicants respectfully request removal of the Kojima et al. publication from further consideration as prior art under 35 USC §102(a) relative to the present application.

For this reason, Applicants respectfully request reconsideration and removal of the above referenced rejection.

III. Claim Rejections - 35 USC §103(a)

In the non-final Office Action dated March 31, 2009, claims 6, 28, 32 and 33 are rejected under 35 USC §103(a) as being obvious over the publication of Kojima et al. titled "4H-SiC Carbon-Face Epitaxial Layers Grown by Low-Pressure Hot-Wall Chemical Vapor Deposition" in view of the publication of Wagner et al. titled "Surface Preparation of 4H-SiC Substrates for Hot-Wall CVD of SiC Layers".

As stated above, the Kojima et al. publication is not prior art relative to the present application based on the earlier priority date (August 19, 2003) of the present application.

For this reason, Applicants respectfully request reconsideration and removal of the above referenced rejection.

IV. Conclusion

In view of the above amendments and remarks, Applicants respectfully submit that the claim rejections have been overcome and that the present application is in condition for allowance. Thus, a favorable action on the merits is therefore requested.

Please charge any deficiency or credit any overpayment for entering this Amendment to our deposit account no. 08-3040.

Respectfully submitted,
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